

**Civil Justice Reform Task Force  
Steering Committee Minutes  
October 29, 2010  
Conference Call**

**I. Attendance**

Members of the Steering committee participating in the conference call included Justice Hecht, Randall Shanks, Laurie Dore, Judge Sean McPartland, Beth Flansberg, John Whiston, Judge Eliza Ovrum, Gerald Denning, Deborah Tharnish, and Sharon Greer. In addition, Rebecca Colton, Counsel to the Chief Justice, and Timothy Eckley, Assistant Counsel, were on the call.

**II. Subcommittee Updates**

**A. Discovery subcommittee:** The Discovery committee met last week and formed three subcommittees of four to five members each to explore discrete areas of initial and expert discovery, electronic discovery, and discovery limitations. The discovery committee has presented its suggestions for survey questions. The subcommittee plans to meet as a whole sometime in January.

**B. Litigation Management subcommittee:** The Litigation Management subcommittee met on October 10 and has discussed and is exploring a number of areas, including the “Maryland rule” and the waiving of findings of facts and conclusions of law in certain cases. Judge McPartland, reporting for the subcommittee, suggested other subcommittees may be considering similar reforms and at some point there may be reason for those committees to confer to avoid overlaps. The subcommittee has also discussed the survey and will be submitting recommended questions soon.

**C. Pre-Trial Procedures subcommittee:** The Pre-Trial Procedures subcommittee will conduct its initial meeting in November. Members will be addressing a number of issues, including statewide adoption of uniform local rules and procedures, the one judge concept, firm trial dates, two-tier civil system (with lower dollar amount cases utilizing fact pleadings and limited discovery), increasing expert witness fees taxed as costs, and issues relating to the jury system—utilizing a uniform jury questionnaire, reviewing the jury education process, and the rehabilitation of jurors. The subcommittee will subdivide its membership to explore these and other topics.

**D. Specialty Courts and Rules subcommittee:** The Specialty Courts and Rules subcommittee has held two conference calls and discussed a number of concepts, including the formation of special business courts, utilizing different discovery/procedural rules for higher dollar cases, a survey questionnaire, and the fundamental question of whether specialty courts are appropriate for Iowa given a relatively low number of cases in specialty areas. The committee is canvassing other states for empirical evidence and experiences for comparison to Iowa.

**E. Court-Annexed Alternative Dispute Resolution subcommittee:** The Court-Annexed ADR subcommittee has submitted 34 suggested survey questions and will be scheduling its next phone conference for sometime within the next couple of weeks. The committee has subdivided its members into three groups to explore areas including mandatory court-connected mediation, the role of judges and the court in ADR, and training and quality control of ADR providers with attention to financing the system.

### **III. Website matters**

Justice Hecht raised the topic of using the judicial branch website to aid Task Force efforts. Rebecca Colton explained that Cheryl Thraillkill has reconfigured and expanded the web pages devoted to Task Force work. There is now a specific page for the Steering committee and each of its subcommittees with lists of the subcommittee members and links to pages where subcommittees can post information on topics and issues considered.

Steve Lawyer (Litigation Management subcommittee co-chair) has built a secure website on his law firm server that might be available for Task Force use. Although Steve was unable to participate in the steering committee phone conference today, inquiry will be made to determine whether this website will provide discussion forums and host documents relevant to the Task Force.

### **IV. Fundraising**

There was no report on fundraising.

### **V. Survey**

The court has investigated the cost and available options for conducting a statewide survey through Survey Monkey. For a \$200 annual fee we can use the Survey Monkey services for unlimited questioning with an unlimited target audience. The Steering committee previously discussed the utility of a survey when so many problems that need addressing are already identified. A survey, however, can reveal details and facets of problem areas specific to Iowa that may not be readily apparent and also serve to enhance buy-in to reform efforts from both the legal community and the public.

Working from the Civil Litigation Survey from Wyoming (“the Wyoming survey”) as a template or prototype, the court has received feedback from the ADR and Discovery subcommittees regarding changes or additions. The Litigation Management subcommittee and Pre-Trial Procedures subcommittee will suggest questions for the survey by or before November 12. Justice Hecht and Tim Eckley will work on incorporating the subcommittee changes and suggestions as they come in.

The question arose of the need for and the feasibility of surveying non-legal users of the court system, including business and industry representatives. The Wyoming survey was targeted to lawyers and judges and is a suitable template for surveying the more than 8000 lawyers and judges in Iowa. Canvassing non-legal users of the court system could spread general buy-in into Task Force efforts and provide helpful insights. Aside from the practical difficulties of surveying non-legal perspectives, however, the extent to which the task force can assume lawyer responses incorporate or reflect the non-legal opinions and experiences of their clients was discussed. We will continue looking at the need and options for targeting non-legal survey respondents.

### **VI. Next meeting(s)**

The next Steering committee conference call is proposed for Friday, December 3. By then a draft survey instrument will have been circulated and the call will be used for commenting on and fine tuning the survey instrument. In addition, each subcommittee will provide further updates on the subcommittee’s work.

The next meeting of the Civil Justice Reform Task Force is proposed for mid to late March 2011. The 18<sup>th</sup> of March was suggested but that date may conflict with spring breaks. The 25<sup>th</sup> of March, 2011, is a possible date for the next full Task Force meeting.